

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

REVIEW PETITION NO.34 OF 2003

IN

COURT RECEIVER'S REPORT DATED 10TH JULY, 2002

IN

AWARD NO.64 OF 1994

...

Metharam R. Khiani

and others.

...Petitioners

v/s.

Nari R. Khiani & others

...Respondents

...

Mr.N.G. Thakkar with Mr.G.C.Mohanti i/b K.N. Damania
& Co. for the Petitioners.

Mr.Mahendra Gelani i/b Law Charter for Respondent
No.1.

...

CORAM: D.K.DESHMUKH, J.

DATED: 14TH JANUARY, 2005

P.C.:

1. This application has been taken out for review of the order dated 30-11-2002. By that order pursuant to the directions contained in the award certain amounts have been directed to be paid to Nari group. The grievance made in the review petition is that when the matter was considered by the Court on report submitted by the Receiver dated 10th July, 2002, it was argued before the Court that the civil suit has been filed by Nari group challenging the validity of the award and therefore the amount to which Nari group is held entitled to by the award should not pay to them. Firstly, there is controversy between the parties that this point was urged before the Court.

2. However, in my opinion, even assuming that this point was urged before the Court, the point has no substance. There is no substance in the point

because unless and until implementation of the award is stayed by an order in civil suit or otherwise the award will have to be implemented. The court implementing the award will not be justified in not paying the Nari group only because they have filed a civil suit challenging the award. I have been informed that in fact the Nari group who has filed the civil suit had moved the civil court for stay of the implementation of award, but that prayer was opposed by the present Petitioners. In my opinion, if there is no stay granted to the execution of the award, the court which is implementing the award will not be justified, on its own, in not implementing the award fully without there being any order from the competent court restraining implementation of the award. I do not find any substance in the review petition. It is disposed of.

Certified copy expedited.

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